REMARKS

Applicants respectfully request reconsideration of the present Application in view of the foregoing amendments and in view of the reasons that follow.

With this Amendment, Claims 1, 7, 9, 10, 16, 17, 21, 23, 31, 33, 34, 40, 41, 45, 47, 48, 50 and 52 have been amended; Claim 51 has been canceled without prejudice or disclaimer of the subject matter recited in these claims; and, no Claims are new. A detailed listing of all claims that are, or were, in the Application, irrespective of whether the claims remain under examination in the Application, is presented, with appropriately defined status identifiers. Thus, Claims 1-50 and 52 remain pending in the Application.

Support for the amendments to Claims 1, 7, 9, 10, 16, 17, 21, 23, 31, 33, 34, 40, 41, 45, 47, 48, 50 and 52 can be found in the disclosure in at least original claims 1-52. No new matter has been added.

Election/Restriction

The species restrictions were made final. On allowance of a generic claim, Applicants respectfully request rejoinder of the species as provided in 37 § C.F.R. 146 and MPEP § 806.04.

Applicants, of course, reserve the right to file a divisional application covering the subject matter of the non-elected claims.

Objections to Specification

The disclosure was objected to because it allegedly contains an embedded hyperlink and/or other form of browser-executable code, such as on page 8, line 13.

Applicants have amended page 8, lines 4-24 to remove the recited website address. Applicant respectfully requests withdrawal of the objection.

Objections to Claims

Claims 16 and 40 were objected to because of a minor informality. Specifically, claims 16 and 40 recites "being performed using" which was found to be awkward.

Claims 16 and 40 have been amended to remove "being performed using." Thus, this rejection is moot.

101 Rejections

Claims 49-52 were rejected under 35 U.S.C. 101 because the claimed invention are allegedly directed to non-statutory subject matter. Applicant traverses the rejection.

Claim 51 has been canceled. Thus, the rejection as to this claim is moot.

Regarding claims 49, 50, and 52, a computer-readable storage medium having executable computer program code" is an article of manufacture, i.e., one of the enumerated statutory classes of invention under § 101. *See See Ex parte Bo Li,* Appeal No. 2008-1213 (BPAI, 2008)(citing *In re Beauregard,* 53 F.3d 1583, 1584 (Fed. Cir. 1995). Additionally, a computer having a memory programed in a new and nonobvious way has been held patentable. *In re Lowry,* 32 F.3d 1579, 1583 (Fed. Cir. 1994)("To this question we say that if a machine is programmed in a certain new and unobvious way, it is physically different from the machine without that program; its memory elements are differently arranged."). *See also, In re Warmerdam,* 33 F.3d 1354, 1360-61 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim). Further, in *In re Bilski,* the Federal Circuit expressly declined to apply the machine or transformation test to articles of manufacture, limiting the new test to method claims. *In re Bilski,* 2007-1130, slip op. at Fn 17, (Fed. Cir. October 30, 2008)(en banc). Indeed, in *In re Ferguson* decision, the Federal Circuit reaffirmed that the transformation of data, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price, constitutes a patent-eligible invention. *In re Ferguson,* 2007-1232, slip op. at Fn 3 (Fed.

Cir. March 6, 2009)(reaffirming *Bilski* did not overturn *State Street*). Indeed, the Court noted, "[t]he claim at issue in *State Street* was thus drawn to a patent-eligible machine implementation of what may have otherwise been a non–patent-eligible abstract idea"). *Id.* at 8-9.

Claim 50 has been amended to recite, *inter alia*, "a computer comprising." Claim 49 recites, *inter alia*, "a computer readable memory." Claim 52 recites, *inter alia*, a memory." That is, claims 49, 50, and 52 recite articles of manufacture and are therefore patent eligible under 35 U.S.C. § 101. Applicant respectfully requests withdrawal of the rejection.

112 Rejections

Claims 1-11, 13-35, and 37-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, claims 1 (line 14), 23 (line 14), 48 (line 13), 50 (line 13), and 51 (line 13) allegedly lack antecedent basis for the limitation "the data". Claims 7 and 31 recite various commas, "ands" and an' or" which were found to be confusing. Claims 9 and 33 allegedly lack antecedent basis for the limitation "the test" in lines 3 and 4, respectively. Claims 10 and 34 allegedly lack antecedent basis for the limitation "the test controls" in line 2. Claims 17 and 41 allegedly lack antecedent basis for the limitation "the mouse cursor" in line 3. Claims 10, 21, 25, 34 and 45 allegedly lack antecedent basis for the limitation "the test parameters". Claims 47 (penultimate line) and 52 (line 11) recite the limitation "using" and "used which was found to be vague and indefinite. Applicant respectfully traverse the rejections.

"The data" in Claims 1, 23, 48, 50, and 51 have been amended to "the received data." Claims 7 and 31 have been completely rewritten to clarify which elements are stored in the information database unit and the virtual database unit. "The test" in claims 9 and 33 have been amended to "a test." "The test controls" in claims 10 and 34 have been amended to "test controls." "The mouse cursor" in claims 17 and 41 have been amended to "a mouse cursor." "The test parameters" in claims 10, 21, 25, 34 and

45 has been amended to "test parameters." Applicants submits that the foregoing amendments render claims 1, 7, 9, 10, 17, 21, 23, 25, 33, 34, 41, 45, 48, 50 and 51 clear and definite.

Claim 47 has been amended to remove "according to the management by the user." Claim 47 includes the steps of "receiving test elements, parameters and controls and simulated environment data from the on-line simulator processor via the port" and "displaying real time images on the user interface replicating a simulated environment using the simulated environment data." That is, simulated environment data is received and used for displaying real time images. Applicants submit that claim 47 is clear and respectfully requests withdrawal of the rejection.

Claim 52 has been amended to replace "to be used" with "used." Claim 52 includes code of conduct data, state-of-the-art data, physics law equation data, technical code and technique data for physical activities requiring training and certification for a user. The memory further includes 'training scenarios complying with the code of conduct, state-of-the-art, physics law equations, technical code and technique, used by the application program." That is, the recited application program uses training scenarios which comply with "the code of conduct, state-of-the-art, physics law equations, technical code and technique." Applicants submit the claim 52 is clear and respectfully requests withdrawal of the rejection.

102 Rejections

Claims 1-11, 13-35, and 37-52 are rejected under 35 U.S.C. 102(e) as being anticipated by French et al. (US 2003/0077556 A1). Applicants respectfully traverse the rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Claims 1, 23, 47, 48, and 50 recite, *inter alia*, "neuromuscular

training and *certification*." Amended claim 52 recites, *inter alia*, "computer executable instructions for determining *certification* based on the training scenarios." These features are not taught by French.

French teaches an interactive education system that includes a tracking system for determining changes in an overall physical location of a student and a display for displaying cues for the student to engage in full-body motion and to engage in an interactive cognitive learning task. (French, Abstract). French also teaches testing and training. (French, paragraph [0048]). French, however, does not teach certification. As discussed in pages 8, 9 and 15 of the instant application, the certification feature allows a third party to determine if the user has the requisite skills to be qualified as proficient in a neuromuscular based skill such as welding. Nowhere does French teach certification as described and claimed in the instant application. Therefore, French does not anticipate claims 1, 23, 47, 48, 50, and 52 or any of the claims that depend on these claims. Applicant respectfully requests withdrawal of the rejection.

CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance. The Director is authorized to charge any fees necessary and/or credit any overpayments to Deposit Account No. 03-3975, referencing Docket No. 015910-0380754.

Respectfully submitted,

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